

August 15, 2013

Zoning Committee Public Hearing  
Public Hearing  
Ms. Anna M. Smaga

This public hearing was called to order at 1:00 p.m. by Zoning Committee Chairman Bob Schneider. This hearing has been posted and published as is required by Wis. Stats and LdF Zoning Ordinance 93-4.

Introductions were made. Zoning Committee members present were: Chairman Bob Schneider, Dan Shanahan, Janet Konopacki, Darwin Lohse and Robert Milburn. Also representing the Town were Sue Ackland, Town Zoning Administrator and Teri Shaw, Zoning Committee Secretary.

Also present is Anna Smaga and her Attorney William Doerr.

On today's agenda is the request from Ms. Smaga for a zoning text amendment to be added to the Lac du Flambeau Comprehensive Zoning Ordinance a residential/lodging district (RL) similar to the residential/lodging district (RL) which has been added to the Vilas County General Zoning Ordinance and which includes rental of a residential dwelling unit as a permitted use.

Chairman Bob Schneider asked Ms. Smaga what she was proposing.

Attorney Doerr stood up introduced himself and stated that he would be representing Ms. Smaga at today's hearing.

Mr. Doerr presented an affidavit of mailing which contained 4 returned green cards 1 of which was not returned.

Mr. Doerr: The County three years ago adopted a new ordinance which added new language. It was unanimously passed on November 9, 2010. The County decided that single family was so restrictive that people couldn't even rent out their residence at all to someone who wasn't going to live there. They felt that in this economy people with a 2<sup>nd</sup>. home trying to pay their taxes and insurance, trying to keep all this afloat that it would be beneficial for them to have a district a little less restrictive than single family, which is very restrictive.

It would allow people, for instance to rent out their summer home on a weekly basis. The problem is if you rent your house out at all it is considered a business, unless you rent it to someone who declares it as their personal residence. The County decided that this was too restrictive and they wanted to create another district, less restrictive, that would allow people to rent out their single family homes on a short term basis.

Mr. Doerr read the Vilas County Ordinance changes to the Committee which an example is on file. Then went on to say: We are petitioning that Lac du Flambeau adopt the same or similar wording in their ordinance that Vilas County has already adopted. My client owns a single family dwelling, but this hearing is not about my client. This hearing is to amend the text of the Lac du Flambeau Zoning Ordinance. This will benefit the whole town of Lac du Flambeau. If you amend the text, anyone in town could petition the Town to come into this new district. You would have individual hearings for each applicant, giving notice to the people within 300 feet of that property. You could approve or deny, and/or set conditions on each as the Zoning Committee felt necessary.

Sue Ackland stated that this was the first time that anything of this nature has happened in Lac du Flambeau.

Discussion took place on how this text amendment would be instituted. It was determined that if this proposed text amendment would pass that applicants for this rezoning must apply individually per parcel of land not as a group.

Janet Konopaki brought up the fact that the Town of Lac du Flambeau just finished a major amendment to its Zoning Ordinance in 2012.

Discussion took place regarding some negative aspects of allowing short term renting in residential areas.

Rob Milburn: Listening to this, I am thinking that this really guts the R1 concept. When I was shopping for my house I decided that I wanted to be in a residential district, understanding what that meant. There's a whole bunch of things that can't happen there and I don't have to police it personally. It was part of the Town Zoning Ordinance. Now, if we were to incorporate this proposed zoning text amendment and someone would come petition the Town to be put into this new district and if it would be granted, there would be no guarantee that the neighbors wishes would be observed. That suddenly it's not an R1 district anymore. It could be very different in character than it was. That's a concern that I would have. I understand that there could be some limitations that we could set on

what people could do, but it sounds to me that we would seriously be changing the notion of a R1 district.

Discussion took place on the fact that we already allow Bed and Breakfast establishments and what the difference was between that and the short term rental of a single family dwelling.

Sue Ackland stated that the difference between a Bed and Breakfast and renting out your house is that the property owner lives on the property – in the house at a Bed and Breakfast.

Dan Shanahan: My concerns are in line with the other members present. I've seen it in my own neighborhood and all over the lake where I live. All of the noise and different people coming and going. It's not a happy weekend when you have this going on. And putting conditions on how these people can play. I don't think so.

Janet Konopacki: We currently don't have noise restrictions in our Town. People come up and they enjoy themselves. There's a lot of fireworks and noise on the weekends, just with people who live in the area. People that don't live up here make a lot of noise. They lose their sense of where they are. They cannot do it at home, but they come up here and they do it. Then, they can't understand why the people up here – that live up here – get upset with the fact that they come up here shoot their fireworks and shot guns. It's annoying. We can't go to them and tell them that they can't do this because we really don't have restrictions here.

Mr. Doerr stated that the committee could instill a whole list of conditions on a CUP application before it was approved. Then there would be conditions in place that would have to be followed or the permit would be pulled.

Chairman Bob Schneider: Then you get into enforcement issues on that. The firecrackers go off and by the time the police get there it's midnight and everything is quiet.

Darwin Lohse asked: Since the amended ordinance has been in operation in Vilas County, has there been any negative complaints or reactions from people? How could we find out if there was?

Mr. Doerr: This is a pretty new district. A lot of people don't even know that there is this option at the County level. The County isn't taking the initiative to ask you to add it to the Lac du Flambeau Ordinance. It takes a private individual, like us, to say "hey this is out there and available, we would like you to amend the current Zoning Ordinance." I talked to Dawn Schmidt,

Vilas County Zoning Administrator, in April and she suggested to me that this would be a perfect district for this situation. This district is closely tied so #1 you can only have these things. You can't have gas stations, RV parks, campgrounds and all the other things that are permitted in the other districts. To date Vilas County hadn't had anyone apply for this yet. There is a lag time between when the amendment is passed and people know it exists. We are still only trying to amend your text today. We aren't rezoning anybody.

Discussion took place on the Vilas County Ordinance.

Rob Milburn: The County Ordinance seems much broader, much more pervasive, many more options than anything I would personally consider. Using it as an example that we should consider, seems pretty scary to me.

Mr. Doerr: Our application did not state that you should adopt it word for word, but that you should adopt something similar.

Rob Milburn asked Sue Ackland what was the definition of a residential dwelling unit? For instance: You have someone who thinks this is really cool. I'm going to start buying up properties – six, seven, eight of them and then create a partnership or company that is in the business of renting these properties out. There will be no permanent resident just a signup sheet for what week is rented to whom.

Sue Ackland: The definition for a dwelling unit we have a building or portion thereof with rooms arranged, designed, used or intended to be used for one family. For enforcement purposes a guest house with bathroom facilities are considered dwelling units. So in single family residential we allow one dwelling unit and one non-rental guest unit per property. Granted there are properties with multiple units per parcel, but these are grand fathered. It's for the purpose of a family or to vacation in. People can rent out their single family homes on a month to month basis. There are some sneaky ones that tell people on the phone that you don't have to stay the whole month.

Sue Ackland stated that she goes by the proof in the advertising. Greg Harrold (Town Attorney) has advised me that I need proof. When people rent a dwelling month to month it is considered their place of residence, their home.

I would like to give a little history. I have to disagree with Mr. Doerr when he states that this will benefit the whole Town and it's not for the benefit of the property owner. I believe this to be coming about because the property owner received a violation letter from me, because after she bought the property, she put it up for rent.

Anna Smaga stated that it wasn't her ad. That it was the ad from the previous owner.

Sue Ackland stated that it was not the previous owner's advertisement. The previous owners had an ad a few years ago, with the house up for rent. She recognized it from when she was on the property when they built something. I sent those property owners a violation letter and they stopped renting it. The guy died and the house was put up for sale. Anna Smaga bought it and put it up for rent and she received a violation letter from me. What disappointed me was not once did Ms. Smaga contact me before she bought the property to check to see if renting it out was possible and not once has she contacted me since receiving the violation letter. She is doing all of this through her attorney Mr. Doerr. A simple phone call before you sign on the dotted line would have cleared this up right away and we wouldn't be having this hearing right now.

Mr. Doerr explained how we had gotten to this point of having this Public Hearing, acknowledging that his client was uninformed.

Sue Ackland stated that Paul Carlson (Town Assessor) has stated that the Town of Lac du Flambeau fee land was 99% residential. We are zoned forestry, R1, a small amount of R2 and a few small industrial districts. She discussed the rezoning of Lac du Flambeau that took place previously and the reasons behind it.

Sue Ackland also stated that her biggest complaint lies with rental properties and enforcing the ordinance in regards to these properties.

Chairman Bob Schneider asked the members if they had any further questions?

Discussion took place on what the difference was between temporary and permanent residence was.

Chairman Bob Schneider: At this time we will like to adjourn this meeting at this time to allow the Smylie CUP hearing to take place. We will reconvene right after.

Rob Milburn: I move that we adjourn this hearing and move onto the Smylie CUP hearing at this time.

Janet Konopacki: I second that motion.

Chairman Bob Schneider asked how the committee voted.

Chairman Bob Schneider: In favor.

Rob Milburn: In favor.

Dan Shanahan: In favor.

Janet Konopacki: In favor.

Darwin Lohse: In favor.

Chairman Bob Schneider: All in favor, this hearing is adjourned until later today.

This hearing was adjourned at 1:53 pm. and will reconvene immediately following the Smylie CUP hearing today.

This hearing was reconvened at 2:00 pm. August 15, 2013.

Rob Milburn: Have we heard from anyone? Has there been any correspondence?

Teri Shaw: Yes, we have received 3 letters regarding this proposed text amendment.

Chairman Bob Schneider: The first letter is from William Durant. His Lac du Flambeau address is 1042 Peach Lane. Chairman Bob read the contents of the letter to the Zoning Committee. For the record, Mr. Durant is in favor of the proposed text amendment.

Chairman Bob Schneider: The second letter is from Frank Homola. Who owns property south of the Smaga residence. Chairman Bob read the letter to the Zoning Committee. For the record, Frank Homola is in favor of the proposed text amendment.

Chairman Bob Schneider: The third and final letter is from Vance and Debra Kapalczynski. Their property is located south of the Smaga residence also. Chairman Bob read the letter to the Zoning Committee. For the record, The Kapalczynski's are in favor of the proposed text amendment.

These letters will be on file at the Lac du Flambeau Town Hall.

Chairman Bob Schneider: Mr. Doerr do you have anything further to add?

Mr. Doerr: We have made a good faith effort to try to get an amendment. If we were to get this new district there would be other applicants besides us that would petition the Town to be in it. We are trying to get down to the County line where people can do this anyway. We are doing this for the whole town of Lac du Flambeau. We are just suggesting that you change the language at this time, nothing more.

Chairman Bob Schneider asked the Zoning Committee if they had any further questions, concerns or comments.

Hearing none: May I have a motion?

Dan Shanahan: I make a motion that we deny this proposal.

Janet Konopacki: I second the motion.

Chairman Bob Schneider: Is there any discussion on the motion?

Hearing none: May I have a vote?

Rob Milburn: I am in favor of denying this proposal.

Dan Shanahan: In favor to deny.

Janet Konopacki: In favor to deny.

Darwin Lohse: In favor to deny.

All in favor of denying this proposed Zoning Ordinance text amendment.

Chairman Bob Schneider: Motion granted. May I have a motion to adjourn?

Rob Milburn: I make the motion to adjourn this hearing.

Dan Shanahan: I second the motion.

Motion carried.

This hearing was adjourned at 2:30 pm.

Respectfully submitted,

Teri Shaw  
Secretary Zoning Committee

THERE IS A TAPE RECORDING OF THIS PUBLIC HEARING ON FILE AT THE TOWN OF LAC DU FLAMBEAU OFFICES.

